

ORIGINAL

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
FRESH TO DEATH, LLC,

Civil Action No. 08-5147

ECF CASE

Plaintiff,

- against -

SHYANG HO FOOTWEAR LTD.,

**NOTICE OF MOTION  
TO ADMIT COUNSEL  
PRO HAC VICE**

Defendant.  
-----x

PLEASE TAKE NOTICE that, upon the annexed affidavits of Blair C. Fensterstock, Esq., Colin J. Zick, Esq., Ryan Cunningham, Esq., and the exhibits attached thereto, Defendant Shyang Ho Footwear, Ltd., by and through its undersigned counsel, will move this Court at the Courthouse, 500 Pearl Street, Courtroom 21D, New York, New York, as soon as counsel may be heard, for an Order pursuant to Local Civil Rule 1.3(c) of this Court, admitting Colin J. Zick, Esq. and Ryan Cunningham, Esq. *pro hac vice* in connection with the above-captioned action, and for such other and further relief as the Court may deem just and proper.

Date: New York, New York  
July 22, 2008

FENSTERSTOCK & PARTNERS LLP

*Blair C. Fensterstock*  
*Blair C. Fensterstock*

Blair C. Fensterstock (BF-2020)

30 Wall Street  
New York, New York 10005  
(212) 785-4100  
*Attorneys for Defendant Shyang Ho Footwear, Ltd.*

JUL 22 2008

08-5147-05147

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FRESH TO DEATH, LLC,

Civil Action No. 08-5147

Plaintiff,

ECF CASE

- against -

SHYANG HO FOOTWEAR LTD.,

**AFFIDAVIT OF  
BLAIR C. FENSTERSTOCK  
IN SUPPORT OF MOTION  
TO ADMIT COUNSEL  
*PRO HAC VICE***

Defendant.

-----X

STATE OF NEW YORK )

)

ss.:

COUNTY OF NEW YORK )

BLAIR C. FENSTERSTOCK, being duly sworn, hereby deposes and says:

1. I am Managing Partner of the law firm of Fensterstock & Partners, LLP, attorneys for Defendant Shyang Ho Footwear Ltd. I submit this affidavit in support of Defendant's Motion to Admit Colin J. Zick, Esq. and Ryan Cunningham, Esq. ("the Applicants") *pro hac vice* in connection with this action pursuant to Local Civil Rule 1.3(c).

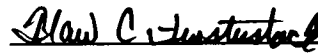
2. By reputation and experience, I know the Applicants to be attorneys of good character, competence and experience, and am confident that they will conduct themselves accordingly before this Court.

3. In connection with this application, I am submitting the Applicants' own affidavits in which each describes his familiarity with the Judicial Code governing practice in the United States District Courts, Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, and Local Rules governing practice in this Court. Attached as exhibits to the Applicants' affidavits are Certificates of Good Standing issued within the last thirty days from the State Bars of Massachusetts and New Hampshire.

4. For the foregoing reasons, I respectfully request that Defendant's motion be granted.

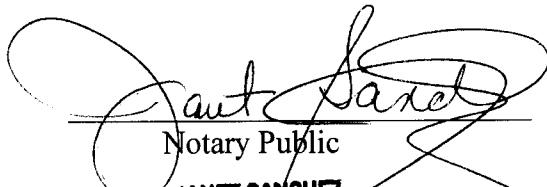
For the Court's convenience, a proposed order granting the motion to admit the Applicants *pro hac vice* is annexed hereto as Exhibit A.





Blair C. Fensterstock

Subscribed and sworn to before me  
this 22nd day of July, 2008.

  
Notary Public  
JANET SANCHEZ  
NOTARY PUBLIC, State of New York  
No. 01SA6072349  
Qualified in Kings County  
Commission Expires 01/01/2010

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FRESH TO DEATH, LLC,

Plaintiff,

- against -

SHYANG HO FOOTWEAR LTD.,

Defendant.  
-----X

Civil Action No. 08-5147

ECF CASE

**ORDER ADMITTING  
COUNSEL *PRO HAC VICE***

This matter having been brought before the Court by Defendant Shyang Ho Footwear Ltd., through their counsel Fensterstock & Partners LLP, by motion pursuant to Local Civil Rule 1.3(c) for an order admitting Colin J. Zick, Esq. and Ryan Cunningham, Esq., *pro hac vice*, on notice to all parties of record hereto, and the Court having reviewed and considered the papers filed in support of this Motion, it is hereby

ORDERED that Colin J. Zick, Esq. and Ryan Cunningham, Esq. be and hereby are admitted *pro hac vice* in connection with this action and shall abide by the provisions of the Local Rules of this Court in all respects and be subject to the disciplinary jurisdiction of this Court in accordance with Local Civil Rule 1.5.

SO ORDERED.

---

U.S.D.J.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FRESH TO DEATH, LLC,

Plaintiff,

- against -

SHYANG HO FOOTWEAR LTD.,

Defendant.  
-----X

Civil Action No. 08-5147

ECF CASE

**AFFIDAVIT OF  
COLIN J. ZICK**

STATE OF NEW YORK     )  
                                  )     ss.:  
COUNTY OF NEW YORK    )

COLIN J. ZICK, being duly sworn, hereby deposes and says as follows:

1. I am an attorney with the law firm Foley Hoag, LLP, and am co-counsel for Defendant Shyang Ho Footwear Ltd. in this matter. My current office address is 155 Seaport Blvd., Boston, MA 02210.

2. I submit this Affidavit in support of Defendant's Motion to Admit Counsel *Pro Hac Vice* in connection with the above-captioned matter.

3. I have been admitted to practice law in the Commonwealth of Massachusetts since 1990 and in the State of New Hampshire since 2004. As shown in the Certificates of Good Standing annexed hereto as Exhibits A and B, I am currently a member in good standing of the Bar of the Commonwealth of Massachusetts and the Bar of the State of New Hampshire.

4. I have been admitted to practice in the following courts: Commonwealth of Massachusetts, State of New Hampshire, United States District Court for the District of Massachusetts, United States District Court for the District of New Hampshire, United States

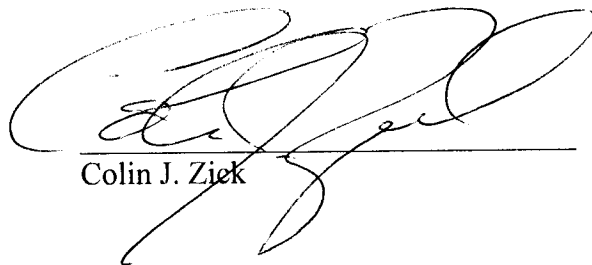
Court of Appeals for the First Circuit and the United States Court of Appeals for the Ninth Circuit.

5. There are no pending disciplinary proceedings against me in any state or federal court.

6. I have read and am familiar with (a) the provisions of the Judicial Code which pertain to the jurisdiction of, and the practice in, the United States District Courts; (b) the Federal Rules of Civil Procedure; (c) the Federal Rules of Criminal Procedure; and (d) the Local Rules of the United States District Court for the Southern and Eastern Districts of New York.

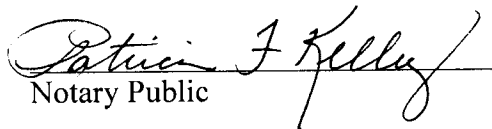
7. I will faithfully adhere to all rules applicable to my conduct in connection with any activities of this Court.

DATED this 21 day of July, 2008.



Colin J. Ziek

Subscribed and sworn to before me  
this 21st day of July, 2008.



Notary Public



PATRICIA F. KELLEY  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
May 12, 2011

# The State of New Hampshire Supreme Court

Be it Remembered,

That at the \_\_\_\_\_ October \_\_\_\_\_  
Session, 20\_04 term of the Supreme Court, held at  
Concord, within and for The State of New Hampshire,  
\_\_\_\_ Colin Jay Zick \_\_\_\_\_, Esquire, of  
\_\_\_\_ Boston \_\_\_\_\_  
in the County of \_\_\_\_\_ Suffolk, Massachusetts \_\_\_\_\_  
having been found qualified for admission to the bar,  
in accordance with the Rules of Court, and having in  
open Court, on the \_\_\_\_\_ twenty-sixth \_\_\_\_\_ day  
of \_\_\_\_\_ October \_\_\_\_\_ 20\_04 \_\_\_\_\_,  
subscribed and taken the oath to support the Constitution  
of the United States of America, the oath of allegiance  
to the State of New Hampshire and the oath of office,  
was admitted to practice as an attorney in the Courts  
of this State and remains in good standing in so far as  
the records of this office disclose.

In Testimony Whereof, I have hereunto  
set my hand, and affixed the seal of said  
Court, this \_\_\_\_\_ 15th \_\_\_\_\_ day of  
\_\_\_\_ July \_\_\_\_\_ 20\_08 \_\_\_\_\_

\_\_\_\_ Eileen Fox \_\_\_\_\_ Clerk.

## COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

BE IT REMEMBERED, that at the Supreme Judicial Court holden at Boston within and for said County of Suffolk, on the **twentieth** day of **December** A.D. **1990**, said Court being the highest Court of Record in said Commonwealth:

Colin J. Zick

being found duly qualified in that behalf, and having taken and subscribed the oaths required by law, was admitted to practice as an Attorney, and, by virtue thereof, as a Counsellor at Law, in any of the Courts of the said Commonwealth: that said Attorney is at present a member of the Bar, and is in good standing according to the records of this Court\*.

In testimony whereof, I have hereunto set my hand and affixed the

seal of said Court, this **fifteenth** day of **July**

in the year of our Lord **two thousand and eight**.



  
MAURA S. DOYLE, Clerk

\* Records of private discipline, if any, such as a private reprimand imposed by the Board of Bar Overseers or by any court, are not covered by this certification.



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FRESH TO DEATH, LLC,

Plaintiff,

- against -

SHYANG HO FOOTWEAR LTD.,

Defendant.  
-----X

Civil Action No. 08-5147

ECF CASE

**AFFIDAVIT OF  
RYAN CUNNINGHAM**

STATE OF NEW YORK     )  
                                  )  
COUNTY OF NEW YORK    )     ss.:

RYAN CUNNINGHAM, being duly sworn, hereby deposes and says as follows:

1. I am an attorney with the law firm Foley Hoag, LLP, co-counsel for Defendant Shyang Ho Footwear Ltd. in this matter. My current office address is 155 Seaport Blvd., Boston, MA 02210.

2. I submit this Affidavit in support of Defendant's Motion to Admit Counsel *Pro Hac Vice* in connection with the above-captioned matter.

3. I have been admitted to practice law in the Commonwealth of Massachusetts since 2004. As shown in the Certificate of Good Standing annexed hereto as Exhibit A, I am currently a member in good standing of the Bar of the Commonwealth of Massachusetts.

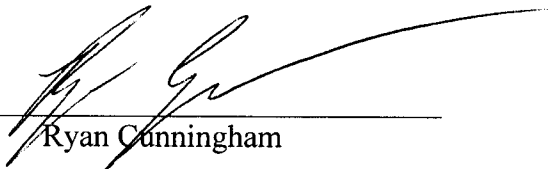
4. I have been admitted to practice in the following courts: Commonwealth of Massachusetts and the United States District Court for the District of Massachusetts.

5. There are no pending disciplinary proceedings against me in any state or federal court.

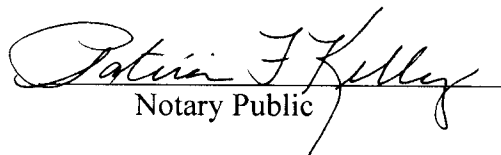
6. I have read and am familiar with (a) the provisions of the Judicial Code which pertain to the jurisdiction of, and the practice in, the United States District Courts; (b) the Federal Rules of Civil Procedure; (c) the Federal Rules of Criminal Procedure; and (d) the Local Rules of the United States District Court for the Southern and Eastern Districts of New York.

7. I will faithfully adhere to all rules applicable to my conduct in connection with any activities of this Court.

DATED this 21<sup>st</sup> day of July, 2008.

  
Ryan Cunningham

Subscribed and sworn to before me  
this 21<sup>st</sup> day of July, 2008.

  
Notary Public



PATRICIA F. KELLEY  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
May 12, 2011

## COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

BE IT REMEMBERED, that at the Supreme Judicial Court holden at Boston within and for said County of Suffolk, on the **thirteenth** day of **December** A.D. **2004**, said Court being the highest Court of Record in said Commonwealth:

**Ryan Cunningham**

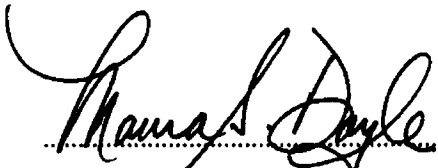
being found duly qualified in that behalf, and having taken and subscribed the oaths required by law, was admitted to practice as an Attorney, and, by virtue thereof, as a Counsellor at Law, in any of the Courts of the said Commonwealth: that said Attorney is at present a member of the Bar, and is in good standing according to the records of this Court\*.

In testimony whereof, I have hereunto set my hand and affixed the

seal of said Court, this **ninth** day of **July**

in the year of our Lord **two thousand and eight**.



  
MAURA S. DOYLE, Clerk

\* Records of private discipline, if any, such as a private reprimand imposed by the Board of Bar Overseers or by any court, are not covered by this certification.

Certificate of Service

I hereby certify that I caused a true copy of the foregoing **DEFENDANT SHYANG HO FOOTWEAR LTD'S NOTICE OF MOTION TO ADMIT COUNSEL PRO HAC VICE, AFFIDAVIT OF BLAIR C. FENSTERSTOCK, AFFIDAVIT OF RYAN CUNNINGHAM, and AFFIDAVIT OF COLIN J. ZICK**, to be served by Overnight Courier Service on the attorneys of record to the within action (No. 08 CV 5147 (RMB)(HP)) on this 22 day of July, 2008.

Martin S. Rapaport, Esq.  
18 East 48<sup>th</sup> Street  
New York, NY 10017

*Blair C. Fensterstock*

*Blair C. Fensterstock*

Blair C. Fensterstock (BF-2020)